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HARVEY S. GILLAP
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Attorneys for Defendant Sierra Vista Unified School District

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

THOMAS ABRUZZO, natural father on
behalf of ASHLEY ABRUZZO AND
KRISTA ABRUZZO, minors,

Plaintiffs,

vs.

SIERRA VISTA UNIFIED SCHOOL
DISTRICT, a political subdivision of the State
of Arizona; DAVID F. FALCON and JANE
DOE FALCON, husband and wife,

Defendants.

Case No. CV201800043

**DEFENDANT SIERRA VISTA
UNIFIED SCHOOL DISTRICT'S
ANSWER**

(Assigned to the Honorable
Wallace Hoggatt, Div. 3)

Defendant Sierra Vista Unified School District ("District"), for its answer to
Plaintiffs' Complaint, hereby admits, denies, and alleges as follows:

I. PARTIES AND JURISDICTION

1. The District lacks knowledge or information sufficient to form a belief as to
the truth of the allegations of paragraph 1 and, therefore, denies the allegations.

1 2. The District admits the allegations of paragraph 2.

2 3. In response to paragraph 3, the District admits that defendant David F.
3 Falcon formerly worked for the District as a bus driver. The District denies any and all
4 remaining allegations of paragraph 3.
5

6 4. The District admits the allegations of paragraph 4.

7 5. The District admits the allegations of paragraph 5.

8 6. The District alleges that paragraph 6 contains legal conclusions that require
9 no response. To the extent a response is required, the District denies each and every
10 allegation in this paragraph. The District further denies that any of its employees
11 committed any acts of negligence while acting within the course and scope of their
12 employment with the District.
13
14

15 7. The District admits the allegations of paragraph 7.

16 8. The District alleges that paragraph 8 contains legal conclusions that require
17 no response. To the extent a response is required, the District denies each and every
18 allegation in this paragraph.
19

20 9. The District alleges that paragraph 9 contains legal conclusions that require
21 no response. To the extent a response is required, the District denies each and every
22 allegation in this paragraph. The District affirmatively alleges that Plaintiffs failed to
23 properly serve a valid notice of claim on the District.
24

25 10. The District admits the allegations of paragraph 10.
26

27 **II. FACTS**

28 11. The District admits the allegations of paragraph 11.

1 12. The District lacks knowledge or information sufficient to form a belief as to
2 the truth of the allegations of paragraph 12 and, therefore, denies the allegations.

3 13. The District denies the allegations of paragraph 13.

4 14. The District lacks knowledge or information sufficient to form a belief as to
5 the truth of the allegations of paragraph 14 and, therefore, denies the allegations.

6 15. The District lacks knowledge or information sufficient to form a belief as to
7 the truth of the allegations of paragraph 15 and, therefore, denies the allegations.

8 16. The District denies the allegations of paragraph 16.

9
10 **III. COUNT ONE - NEGLIGENCE**

11 17. The District alleges that paragraph 17 contains legal conclusions that require
12 no response. To the extent a response is required, the District denies each and every
13 allegation in this paragraph.

14 18. The District alleges that paragraph 18 contains legal conclusions that require
15 no response. To the extent a response is required, the District denies each and every
16 allegation in this paragraph.

17 19. The District alleges that paragraph 19 contains legal conclusions that require
18 no response. To the extent a response is required, the District denies each and every
19 allegation in this paragraph.

20 20. The District denies the allegations of paragraph 20 to the extent that they
21 pertain to the District.

22 21. The District denies the allegations of paragraph 21.

23 22. The District denies the allegations of paragraph 22.

23. The District denies the allegations of paragraph 23.

IV. DAMAGES

24. The District denies the allegations of paragraph 24.

25. The District denies the allegations of paragraph 25.

26. The District denies the allegations of paragraph 26.

AFFIRMATIVE DEFENSES

1. The District denies all allegations not expressly admitted above, including all allegations in Plaintiffs' prayer for relief.

2. The District alleges that the Complaint fails to state a claim upon which relief may be granted.

3. The District reserves the right to allege the fault and negligence of any other party or any other person who is not presently a party, but who may be wholly or partially at fault for any of Plaintiffs' alleged injuries and damages.

4. The District alleges that Plaintiffs failed to properly serve a valid notice of claim on the District pursuant to A.R.S. § 12-821.01.

5. The District alleges that Plaintiffs' claims against the District are barred in accordance with A.R.S. § 12-820.05(B).

6. The District alleges that Plaintiffs' claim for punitive damages against the District is barred in accordance with A.R.S. § 12-820.04.

7. The District asserts that it is not liable for the acts of defendant David Falcon, as alleged, under the doctrines of vicarious liability or respondeat superior.

1 8. The District has not yet had a reasonable opportunity to complete discovery.
2 Because of the possibility that facts and circumstances may be discovered later, the District
3 reserves the right to assert, and hereby incorporates by reference, all defenses contained in
4 Rules 8 and 12, Ariz. R. Civ. P. The District further alleges any other matter constituting
5 an avoidance or affirmative defense, including A.R.S. §§ 12-820 through and including 12-
6 821.01.
7

8
9 WHEREFORE, having fully defended, the District requests that this Court enter
10 judgment in its favor on Plaintiffs' Complaint, with prejudice and on the merits, that
11 Plaintiffs take nothing by their claims, that the District be awarded its costs of suit and
12 attorneys' fees—if and as appropriate—and that the Court grant the District such other and
13 further relief as is deemed just and proper under the circumstances.
14

15 DATED this 2nd day of March, 2018.
16

17 WRIGHT WELKER & PAUOLE PLC

18 By 

19 Matthew W. Wright
20 Christopher S. Welker
21 10429 South 51st Street, Suite 285
22 Phoenix, Arizona 85044
23 Attorneys for Defendant Sierra Vista Unified
24 School District

25 **ORIGINAL** of the foregoing mailed via Federal Express
26 for filing this 2nd day of March, 2018, to:

27 Clerk of the Court
28 Cochise County Superior Court
 P. O. Drawer CK
 100 Quality Hill
 Bisbee, Arizona 85603

1 **COPY** of the foregoing mailed via Federal Express
2 this 2nd day of March, 2018, to:

3 Hon. Wallace Hoggatt
4 Cochise County Superior Court
5 P. O. Drawer CG
6 100 Quality Hill
7 Bisbee, Arizona 85603

8 **COPY** of the foregoing mailed
9 this 2nd day of March, 2018, to:

10 Dev K. Sethi
11 Matthew F. Schmidt
12 Schmidt, Sethi & Akmajian
13 1790 E. River Road, Suite 300
14 Tucson, Arizona 85718
15 Attorneys for Plaintiffs

16 /s/Debi Handrahan

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